

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Thursday, August 1, 2002

Division One

A095777 -- In re Kelly B., a Person Coming Under the Juvenile Court Law. The People v. Kelly B.

The judgment is affirmed. Swager, J. We Concur: Marchiano, P.J., Stein, J. (Not for Publication.)

A096631 -- The People v. Michael Hartnett.

The judgment is affirmed. Swager, J. We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

Division Four

A096928 -- Department of Alcoholic Beverage Control v. Alcoholic Beverage Control Appeals Board; Norman C. Deleuze, Rosa Lee Deleuze.

In this proceeding we do not determine whether the decision of the Board can or should be affirmed; we determine only whether the Department's decision must be overturned based on any of the grounds set forth in section 23090.2. For the reasons set forth above, we hold—and the Board appears to concede—that the Department's interpretation of the statute is a rational one. Accordingly, it was error for the Board to substitute its own interpretation for that of the Department, nor are we allowed to supplant the Department's decision with one of our own. Having discovered no grounds for reversing the Department's decision, the Board's decision is vacated and the decision of the Department is reinstated. Rivera, J. We Concur: Reardon, Acting P.J., Sepulveda, J. (Certified for Publication.)

Thursday, August 1, 2002 (continued)

Division Five

A098949 -- Michael Bonneau v. The Superior Court of Sonoma County; Rodolfo Di Massa et al.

By the Court:* Let a peremptory writ of mandate issue commanding respondent superior court to set aside and vacate its order of June 14, 2002 (filed June 17, 2002) granting real parties' motion in limine number 14, and to enter a new and different order denying that motion. Due to the rapidly approaching trial date, this decision will become final as to this court five days after it is filed. (Cal. Rules of Court, rule 24(d). Petitioner shall recover the costs he incurred in this writ proceeding. (Cal Rules of Court, rule 56.4(a).) (Not for Publication.)

*Before Jones, P.J., Simons, J. and Gemello, J.

Monday, August 5, 2002

Division Three

A097277 -- In re Michael A., a Person Coming Under the Juvenile Court Law. The People v. Michael A.

The order committing appellant to CYA is affirmed. McGuiness, P.J. We
Concur: Corrigan, J., Parrilli, J. (Not for Publication.)

Tuesday, August 6, 2002

Division Two

A095410 -- The People v. Orlando Antonio Martinez.

The judgment is affirmed. Ruvolo, J. We Concur: Haerle, Acting P.J., Lambden, J. (Not for Publication.)

Division Four

A096867 -- In re Dante L., a Person Coming Under the Juvenile Court Law. The People v. Dante L.

The dispositional order is reversed. Kay, P.J. We Concur: Reardon, J., Sepulveda, J. (Not for Publication.)

MINUTES
CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT
DIVISION FOUR
Tuesday, August 6, 2002

The Court convened at 9:30 a.m. in its courtroom at 350 McAllister Street, 4th Floor, San Francisco. Present: Kay, P.J., Reardon, J. and Sepulveda, J.; Channing Hoo, Deputy Clerk; CHP Officer Daniel Mendias, Bailiff.

A096066 People
 v.
 Melvin Jackson
Cause called. Keith Wattley argued for appellant Jackson. Geoffrey S. Lauter argued for respondent. Cause submitted.

At this point, the panel reconstituted itself from Kay, P.J., Reardon, J. and Sepulveda, J. to Kay, P.J., Sepulveda, J. and Rivera, J.

A097498 David Purtle
 v.
 Alonzo Hernandez
Cause called. Michael Kinane argued for appellant Purtle. Julian Lastowski argued for respondent. Cause submitted.

A097087 Universal Recovery Service
 v.
 Sidney Dahro
Cause called. Charles E. Smith, Jr. argued for appellant Dahro. John Pugh teleargued for respondent. Cause submitted.

The Court recessed at 10:24 a.m.

MINUTES
CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT
DIVISION FOUR
Tuesday, August 6, 2002

The Court reconvened at 1:30 p.m. in its courtroom at 350 McAllister Street, 4th Floor, San Francisco. Present: Kay, P.J., Reardon, J. and Rivera, J.; Channing Hoo, Deputy Clerk; CHP Officer Vincent Chambers, Bailiff.

A096617 Joe Hilton
 v.
 Lincoln Mintz
Cause called. Bruce Nickerson argued for appellant Hilton. Alan J. Zacharin argued for respondent Mintz. Cause submitted.

At this point, the court reconstituted itself from Kay, P.J., Reardon, J. and Rivera, J. to Reardon, Acting P.J., Sepulveda, J. and Rivera, J.

A095610 Eugene Ortiz
 v.
 Kaiser Permanente
Cause called. Stanley G. Hilton argued for appellant Ortiz. Jeff Husking argued for respondent. Cause submitted.

The Court adjourned at 1:53 p.m.

Wednesday, August 7, 2002

Division Two

A096127 -- The People v. William Niccore.

The appeal is dismissed. Haerle, Acting P.J. We Concur: Lambden, J.,
Ruvolo, J. (Not for Publication.)

STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION THREE

Wednesday, August 7, 2002

Court convened at 9:00 a.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California.

Present: Corrigan J., Parrilli J., Pollak J., and C. Turner, Deputy Clerk.

A092532 In re the Estate of Henri I. Leleu, II
 Deceased.
 Joanne Noblitt,
 v.
 Henri I. Leleu, III
 Cause called and argued by Mark Johnson, counsel for appellant, and James Foster Feutz, counsel for respondent. Cause ordered submitted.

A095036 Bay World Trading, Ltd.,
 v.
 Nebraksa Beef, Inc.,
 Cause called and argued by Craig S. Miller, counsel for appellant, and Kevin Reese, counsel for respondent. Cause ordered submitted.

Justice McGuiness took his place on the bench. Justice McGuiness stated the panel on the Custock case is comprised of Justice McGuiness, Parrilli, J and Pollak, J.

A094881 Scott Hoey-Custock,
 v.
 City of Oakland,
 Cause called and argued by Ines Maria Varg Fraenkel, counsel for appellant, and Gregory Schwartz, counsel for respondent. Cause ordered submitted.

Justice McGuiness stated the panel for League of Women Voters would be comprised of McGuiness, PJ, Corrigan, J. and Parrilli J.

A093544 League of Women Voters of California, et al.,
 v.
 Gray Davis, et al.,
 Cause called and argued by Steven Lee Mayer, counsel for appellant, and Ramon de la Guardia, counsel for respondent. Cause ordered submitted.

A093408 Marcia Green,

A093920 v.

A094683 State of California,

Cause called and argued by Kathy Mildred Banke, counsel for appellant, and
Geoffrey Martin Faust, counsel for respondent. Cause ordered submitted.

court adjourned

Wednesday, August 7, 2002 (continued)

Division Four

A096809 -- In re Andre S., Jr., Jr., a Person Coming Under the Juvenile Court Law. Alameda County Social Services v. Andre S., Sr.

The order of the juvenile court appealed from is affirmed. Sepulveda, J.
We Concur: Reardon, Acting P.J., Rivera, J. (Not for Publication.)

A097087 -- Universal Recovery Corporation v. Sidney Dahro.

The order denying the motion to vacate the judgment is affirmed. Rivera, J.
We Concur: Kay, P.J., Sepulveda, J. (Not for Publication.)

Division Five

A096869 -- In re Christopher G., a Person Coming Under the Juvenile Court Law. The People v. Christopher G.

The case is remanded to the trial court for the limited purpose of amending the dispositional order to reflect a stay under Penal Code section 654 of the eight-month sentence for false imprisonment and to reflect a period of physical confinement no longer than five years four months. In all other respects the judgment is affirmed. Simons, J. We Concur: Jones, P.J., Pollak, J.* (Not for Publication.)

*Associate Justice of the Court of Appeal, First Appellate District, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Wednesday, August 7, 2002 (continued)

Division Five

A093213 -- The People v. Rigoberto Z. Campos.

The judgment is affirmed. Gemello, J. We Concur: Jones, P.J., Simons, J.
(Not for Publication.)

A096792 -- The People v. Odia Rea Chiles.

The judgment is affirmed. Gemello, J. We Concur: Stevens, Acting P.J.,
Simons, J. (Not for Publication.)

A097947 -- The People v. Raymond Lester Gifford.

The order permanently revoking appellant's probation and reinstating his
previously stayed commitment to state prison is affirmed. Gemello, J. We
Concur: Stevens, Acting P.J., Simons, J. (Not for Publication.)

Thursday, August 8, 2002

Division One

A095384 -- The People v. Vincent Daggs

Furthermore, any error in admission of the testimony and the prosecutor's comment on it was not prejudicial. The appropriate standard of review is whether it is reasonably probable that a result more favorable to the appealing party would have been reached in the absence of the error. (*People v. Bradford* (1997) 15 Cal.App.4th 1229, 1325; *People v. Watson* (1956) 46 Cal.2d 818, 836; *People v. Espinoza* (2002) 95 Cal.App.4th 1287; 1317; *People v. Rains* (1999) 75 Cal.App.4th 1165, 1170.) Looking at the record in its entirety, and particularly the persuasive corroboration for Manuel's account of the confrontation derived from other testimony and the physical evidence found in the house, we conclude that admission of evidence of Daggs's expression of belief in what the victim told him was harmless. Accordingly, the judgment is affirmed. Swager, J. We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

A095760 -- The People v. Luiz C. Gonzalez.

The judgment of conviction and state prison sentence are affirmed. Marchiano, P.J. We Concur: Stein, J., Swager, J. (Not for Publication.)

A095575 -- The People v. Rick Dean Tyler.

The judgment of conviction and state prison sentence are affirmed. Marchiano, P.J. We Concur: Swager, J., Margulies, J. (Not for Publication.)

MINUTES

CALIFORNIA COURT OF APPEAL FIRST APPELLATE DISTRICT DIVISION TWO

Thursday, August 8, 2002

The Court met at 9:30 a.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: Kline, P. J., Haerle, J. Lambden, J., Ruvolo, J. and S. Graham, Deputy Clerk.

At this point in the proceedings, Presiding Justice Kline announced that the panel for Marriage of Kornhauser would consist of himself and Justices Haerle and Lambden and that the panel for the remaining cases would be Justices Haerle, Lambden and Ruvolo.

A-05054 Sarah Halees, etc., et al.

v.

Millie Chauser

Cause called and argued by Steven Stein, counsel for appellants and Ronald F. Berestka, counsel for respondent. Cause ordered submitted.

A096723 Marriage of Kornhauser

Sally F. Kornhauser

v.

Samuel Kornhauser

Cause called. Appellant Samuel Kornhauser appearing in propria persona. No appearance was made by counsel for respondent. Cause ordered submitted.

A093331 Dorothee Dary, et al.

v.

Jeff Brigham, et al.

Cause called and argued by Mark Martel, counsel for appellants and Tony Tanke, counsel for respondents. Cause ordered submitted.

Court recessed until 1:30 p.m.

Court reconvened at 1:30 p.m. Present: Kline, P. J., Haerle, J., Ruvolo, J. and S. Graham, Deputy Clerk.

A094545 People

v.

Ernest Wally Rogers

Cause called and argued by Laureen Bethards, counsel for appellant and Ralph Sivilla, Deputy Attorney General, counsel for respondent. Cause ordered submitted.

A074986

People

v.

James R. Metters

Cause called and argued by John Ward, counsel for appellant and John Vance, Deputy Attorney General, counsel for respondent. Cause ordered submitted.

A096719

James A. Sims, Jr.

v.

Douglas J. Henderickson, et al.

Cause called and argued by Michael Sitzman, counsel for appellants and Aaron R. Feldman, counsel for respondent. Cause ordered submitted.

Court recessed until Friday, August 09, 2002 at 9:30 a.m.

Thursday, August 8, 2002 (continued)

Division Five

A096755 -- The People v. Michael David Green.

The judgment of conviction and sentence are affirmed. Stevens, J. We
Concur: Jones, P.J., Gemello, J. (Not for Publication.)

Friday, August 9, 2002

Division One

A093971 -- The People v. Willie Richardson, Jr.

The judgment is affirmed. Margulies, J. We Concur: Marchiano, P.J., Stein, J. (Not for Publication.)

Division Two

A099021 -- Marie B. v. Superior Court of Del Norte County; Del Norte County Department of Health and Social Services, R.P.I.

The petition for extraordinary writ is denied on the merits. Since the permanency planning hearing is presently set for August 16, 2002, our decision on the writ petition is final as to this court immediately. (Cal. Rules of Court, rule 24(d) Haerle, Acting P.J. We Concur: Lambden, J., Ruvolo, J. (Not for Publication.)

MINUTES

CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT
DIVISION TWO

Friday, August 09, 2002

The Court met at 9:30 a.m. in its courtroom at 350 McAllister Street, 4th Floor, San Francisco. Present: Kline, P.J., Lambden, J., Ruvolo, J. and S. Graham, Deputy Clerk.

- A094369 People
 v.
 James Anthony Dickerson
Cause called and argued by Oliver Northup, counsel for appellant and Claire Ebey, Certified Law Student, counsel for respondent. Cause ordered submitted.
- A094671 Container Storage, Inc.
 v.
 Underwriters at Lloyd's of London
Cause called and argued by Paul Johnson, counsel for appellant and Martin Johnson, counsel for respondent. Cause ordered submitted.

COURT ADJOURNED.

Friday, August 09, 2002 (continued)

A096826 -- In re Kevin C., a Person Coming Under the Juvenile Court Law. Marin County Social Services Department v. Viny C.

The orders of the juvenile court are affirmed. Kline, P.J. We Concur: Haerle, J., Ruvolo, J. (Not for Publication.)

A099022 -- Michael G. v. Superior Court of Del Norte County; Del Norte County Department of Health and Social Services, R.P.I.

The petition for extraordinary writ is denied on the merits. Since the permanency planning hearing is presently set for August 16, 2002, our decision on the writ petition is final as to this court immediately. (Cal. Rules of Court, rule 24(d).) Haerle, Acting P.J. We Concur: Lambden, J., Ruvolo, J. (Not for Publication.)

A095836 -- The People v. Michael Rounds.

The judgment is affirmed. Kline, P.J. We Concur: Haerle, J., Ruvolo, J. (Not for Publication.)

Friday, August 9, 2002 (continued)

Division Four

A090932, A091716, A093126 -- Emeryville Redevelopment Agency v. Harcros Pigments, Inc. et al.

In A090932, the judgment is reversed for further proceedings consistent with this opinion. A091716 and A093126 are dismissed as moot. Sepulveda, J. We Concur: Kay, P.J., Reardon, J. (Not for Publication.)

Division Five

A096562 -- The People v. Herbert Peter Jacks II

The judgment is modified by striking any reference to the enhancement under section 12022.53, subdivision (b). As so modified, the judgment is affirmed. The clerk of the superior court is directed to correct the November 17, 2000 clerk's minutes and the January 19, 2001 minute order, prepare an amended abstract of judgment, and forward a certified copy to the Department of Corrections. Gemello, J. We Concur: Jones, P.J., Simons, J. (Not for Publication.)

A097305 -- Jordan Rosenberg v. Salomon Smith Barney Inc.

The judgment is affirmed. Simons, J. We Concur: Stevens, Acting P.J., Gemello, J. (Not for Publication.)

A095114 -- The People v. Raymond Deloris Whisenhunt.

The judgment is affirmed. Simons, J. We Concur: Jones, P.J., Gemello, J. (Not for Publication.)

Monday, August 12, 2002

Division Three

A092532 - Estate of Henri I. Leleu II, Deceased.

The judgment is affirmed. The parties shall bear their own costs on appeal.
Pollak, J. We Concur: Corrigan, Acting P.J., Parrilli, J. (Not for Publication.)

Division Four

A096066 -- The People v. Melvin Lee Jackson.

The order is affirmed. Reardon, J. We Concur: Kay, P.J., Sepulveda, J.
(Not for Publication.)

Division Five

A096670 -- Philip Kahn et al. v. Benny Chetcuti, Jr.

The judgment confirming the award and denying appellant's petition to correct the award is affirmed. Jones, P.J. We Concur: Stevens, J., Simons, J.
(Certified for Partial Publication.)

Monday, August 12, 2002 (continued)

A097788 -- Rabobank Nederland et al. v. The Superior Court of Contra Costa County; Michael Firth et al., R.P.I.

By the Court:* We have reached our decision after giving notice to all parties that we might act by issuing a peremptory writ in the first instance. (*Palma v. U.S. Industrial Fasteners, Inc.* (1984) 36 Cal.3d 171, 177-180.) Petitioners' entitlement to relief is obvious, and no useful purpose would be served by plenary consideration of this issue. (*Ng v. Superior Court* (1992) 4 Cal.4th 29, 35; see also *Lewis v. Superior Court* (1999) 19 Cal.4th 1232, 1236-1237, 1240-1241.)

Accordingly, let a peremptory writ of mandate issue commanding respondent superior court to set aside and vacate its February 4, 2002, decision upon motion to review referee's recommendation as to motion to compel insofar as petitioners were ordered to produce documents based upon a finding that the attorney-client privilege was waived, and to proceed in accordance with the views expressed in this opinion. This decision will become final as to this court 10 days after it is filed. (Cal. Rules of Court, rule 24(d).) Petitioners shall recover the costs they incurred in this writ proceeding. (Cal. Rules of Court, rule 56.4(a).) (Not for Publication.)

*Before Stevens, Acting P.J., Simons, J., and Kay, P.J. (Presiding Justice of the Court of Appeal, First Appellate District, Division Four, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution).

Tuesday, August 13, 2002

Division Two

A096479 & A096881 -- In re Amy L. et al., Persons Coming Under the Juvenile Court Law. San Francisco Department of Human Services v. Olivia L.

The challenged orders are affirmed. Lambden, J. We Concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

A095352 -- The People v. Ricky Roy Merritt.

The judgment is affirmed. Haerle, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

Division Three

A095036 -- Bay World Trading, LTD. v. Nebraska Beef, Inc.

The judgment is affirmed. Appellant shall bear costs of the appeal. Parrilli, J. We Concur: Corrigan, Acting P.J., Pollak, J. (Certified for Partial Publication.)

A096386 -- The People v. Ronald Wayne Hudson.

Judgment affirmed. Parrilli, J. We Concur: McGuinness, P.J., Corrigan, J. (Not for Publication.)

Division Five

A091031 -- The People v. Joshua Rudiger.

The judgment is affirmed. Jones, P.J. We Concur: Stevens, J., Simons, J. (Not for Publication.)

Wednesday, August 14, 2002

Division Four

A099052 -- Vickey R. v. The Superior Court of Del Norte County; Del Norte County Department of Health and Social Services, R.P.I.

The petition for extraordinary writ is denied on the merits. (§ 366.26, subd. (1); Cal. Rules of Court, rule 39.1B(o); *In re Julie S.* (1996) 48 Cal.App.4th 988, 990-991.) As the section 366.26 hearing is set for August 23, 2002, our decision is final in this court immediately. Reardon, J. We Concur: Kay, P.J., Rivera, J. (Not for Publication.)

Division Five

A096442 -- Shannon Guillory v. The Superior Court of Contra Costa County; The People, R.P.I.

Order Modifying Opinion and Denying Rehearing. By the Court: It is ordered that the opinion filed herein on July 29, 2002, be modified as follows: (See order.) The petition for rehearing is denied. The modification does not effect a change in the judgment. Jones, P.J. (Certified for Publication.)

A094872 -- Sherwood Valley Rancheria v. Friends of East Willits Valley; Walter Stebbins; Bob Whitney.

The County's issuance of approvals for the Project represented the considered judgment of elected officials after reasoned deliberation and evaluation of the available evidence. Having considered each of the bases relied upon by the trial court, we find no legal cause to set aside the County's decisions. Accordingly, we reverse the judgment of the trial court ordering issuance of a writ of mandate and remand with instructions to deny the petition. The Tribe shall recover its costs on appeal. Gemello, J. We Concur: Stevens, Acting P.J., Simons, J. (Certified for Partial Publication.)

MINUTES

COURT OF APPEAL STATE OF CALIFORNIA FIRST APPELLATE DISTRICT

DIVISION FIVE

Wednesday, August 14, 2002

Court convened at 9:00 a.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: Jones, P.J.; Stevens, J.; Simons, J., Gemello, J., and Richard H. Sandvik, Deputy Clerk.

A09461 Semans Communications, Inc.

0 v.

C.H. Reynolds Electric, Inc. et al.

Cause called and argued by William R. Warhurst, counsel for appellant, and by Paul J. Derania, counsel for respondent. Cause ordered submitted.

A09591 1369 Hyde Street, LTD

5 v.

San Francisco Rent Stabilization & Arbitration Board

Meghan Farrell Reilly et al.

Cause called and argued by Thomas LoSavio, counsel for appellant, and by Kevin S. Dickey, counsel for respondent. Cause ordered submitted.

A09726 Jea Seok Kim

1 v.

Gayle Permar

Cause called and argued by Dwight S. Harris, counsel for appellant, and by James A. Bruen, counsel for respondent. Cause ordered submitted.

A09760 In re Al B., a Person Coming Under the Juvenile Court Law

1 The People

v.

Al B.

Cause called and argued by Frank S. Moore, counsel for appellant argued via teleconference call, and by Bridget Billeter, counsel for respondent. Submission deferred.

At this point in the proceedings Justice Simons left the bench and Justice Jones took his place.

A09496 Ming F. Woo et al.

0

v.

Eric W. Lien et al.

Cause called and argued by Mattaniah Eytan, counsel for appellant, and by Albert Lee, counsel for respondent. Cause ordered submitted.

A09569 Estate of Arthur Allen Baker Deceased.

5

Mary Baker

v.

Leighton Lang et al.

Cause called and argued by Meredith Fahn, counsel for appellant, and by John F. Schuck, counsel for respondent. Cause ordered submitted.

Court adjourned at 11:08 a.m.

Thursday, August 15, 2002

Division Two

A095559/A095675 -- In re Martin B., a Person Coming Under the Juvenile Court Law. The People v. Martin B.

The judgment is affirmed. Haerle, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

A092956 -- California Quality Glass & Mirror Corp. v. Peerless Products, Inc. et al.

The judgment is affirmed. Costs on appeal to respondent Quality Glass. Kline, P.J. We Concur: Lambden, J., Ruvolo, J. (Not for Publication.)

A091282 -- The People v. Richard Lugo Guerrero.

The judgment is affirmed. Ruvolo, J. We Concur: Haerle, Acting P.J., Lambden, J. (Not for Publication.)

A097584 -- Estate of Emmy W. Jensen, Deceased.

The judgment is affirmed. Lambden, J. We Concur: Haerle, Acting P.J., Ruvolo, J. (Not for Publication.)

Division Three

A094881 -- Scott Hoey-Custock v. City of Oakland.

The judgment is affirmed. Plaintiff Scott Hoey-Custock is to recover his costs on appeal. Pollak, J. We Concur: McGuinness, P.J., Parrilli, J. (Not for Publication.)

Division Four

A096617 -- Joe Hilton v. Lincoln Mintz et al.

The summary judgment is affirmed. Kay, P.J. We Concur: Reardon, J., Rivera, J. (Not for Publication.)

Thursday, August 15, 2002 (continued)

Division Four

A095157 -- The People v. Edward Paul Leon.

The finding that defendant's 1995 prior conviction constitutes a strike is reversed, and the sentence imposed is vacated. The matter is remanded to the superior court for resentencing. In all other respects, the judgment is affirmed. Rivera, J. We Concur: Reardon, Acting P.J., Sepulveda, J. (Not for Publication.)

A097273 -- In re Matthew T., a Person Coming Under the Juvenile Court Law. The People v. Matthew T.

The order is affirmed. Rivera, J. We Concur: Reardon, Acting P.J., Sepulveda, J. (Not for Publication.)

MINUTES

COURT OF APPEAL STATE OF CALIFORNIA FIRST APPELLATE DISTRICT

DIVISION FIVE

Thursday, August 15, 2002

Court convened at 9:00 a.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: Jones, P.J.; Stevens, J.; Simons, J., Gemello, J., and Richard H. Sandvik, Deputy Clerk.

A09767 Jack Robishaw
7 v.
 ExxonMobil Corporation
Cause called and argued by William H. Armstrong, counsel for appellant, and
by Lloyd F. LeRoy, counsel for respondent. Cause ordered submitted.

A09632 Ford Motor Credit Company
5 v.
 Daniel B. Cordova
Cause called and argued by Andrew Jones Ogilvie, counsel for appellant, and
by Jan T. Chilton, counsel for respondent. Cause ordered submitted.

A09632 Conservatorship of the Estate of Robert M. Likes
5 Robert M. Likes
 v.
 Charles Riffle
Cause called and argued by Thomas J. Klitgaard, counsel for appellant, and
by Juliette Nguyen, counsel for respondent. Cause ordered submitted.

A09510 The People

1 v.

Luis Acosta Padilla

Cause called and argued by Julian Gross, counsel for appellant, and by Ryan B. McCarroll, counsel for respondent. Cause ordered submitted.

A09279 The People

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v.

Khalid Muhammad

Cause called and argued by Walter K. Pyle, counsel for appellant, and by John H. Deist, counsel for respondent. Cause ordered submitted.

At this point in the proceedings Justice Gemello left the bench and Justice Stevens took her place.

A09646 In re Hans M. et al., Persons Coming Under the Juvenile Court Law
9 Social Services Agency

v.

Patricia M. et al.

Cause called and argued by David J. Beauvais and Janet G. Sherwood, counsel for appellants, and by Anthony E. Scarr, counsel for respondent. Cause ordered submitted. Court held in closed session.

Court adjourned at 11:32 a.m.

Friday, August 16, 2002

Division Two

A096104 -- In re Jerome M. et al., Persons Coming Under the Juvenile Court Law. Alameda County Social Services Agency v. Seena R.

The appeal is dismissed. Lambden, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

Division Three

A093927 -- The People v. Darrell Tyjuan Allen.

The judgment is reversed and the matter remanded for a new trial. Pollak, J. We Concur: McGuiness, P.J., Parrilli, J. (Certified for Partial Publication.)

Division Four

A098193 -- The People v. Curtis Bryant.

In all other respects, the judgment is affirmed. Reardon, J. We Concur: Kay, P.J., Sepulveda, J. (Not for Publication.)

Division Five

A097158 -- The People v. Laurie Roseanne Hayes.

The judgment is affirmed, and the matter is remanded to the trial court for a recalculation of appellant's presentence credit in accordance with the discussion herein. Gemello, J. We Concur: Jones, P.J., Simons, J. (Not for Publication.)

A097786 -- The People v. Cherri Kayreen Masterson.

The judgment is affirmed. Jones, P.J. We Concur: Stevens, J., Gemello, J. (Not for Publication.)

Monday, August 19, 2002

Division Two

A094418 -- The People v. Calvin Dante Gotelli.

The judgment is affirmed. Ruvolo, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

Division Three

A097556 -- The People v. Michael Ambriz, Jr.

The judgment is affirmed. Parrilli, J. We Concur: McGuinness, P.J., Corrigan, J. (Not for Publication.)

A093544 -- League of Women Voters of California et al. v. Gray Davis et al.

The judgment is affirmed. Appellants shall bear costs of the appeal. Parrilli, J. We Concur: McGuinness, P.J., Corrigan, J. (Not for Publication.)

Division Four

A095610 -- Eugene Ortiz v. Kaiser Foundation Hospitals et al.

The denial of the petition to vacate the arbitration award is affirmed. Rivera, J. We Concur: Reardon, Acting P.J., Sepulveda, J. (Not for Publication.)

Tuesday, August 20, 2002

Division Two

A096723 -- In re Marriage e of Sally F. and Samuel Kornhauser.

The order is affirmed. Costs to respondent. Lambden, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

Division Four

A097725 -- The People v. Tri Scott Ngo.

The judgment is affirmed. Rivera, J. We Concur: Kay, P.J., Sepulveda, J. (Not for Publication.)

A092700 -- The People v. Leo Adam Somersall.

The great bodily injury enhancement, as found by the jury in *Somersall I*, is reversed and the cause is remanded to the trial court for resentencing proceedings in light of the conclusions reached in this opinion; the remainder of the judgment appealed from is affirmed. Sepulveda, J. We Concur: Kay, P.J., Reardon, J. (Not for Publication.)

Division Five

A098400 -- In re Joshua F. et al., Persons Coming Under the Juvenile Court Law. Lake County Department of Social Services v. Tamie F.

The order terminating parental rights is affirmed. The stay of the adoption proceedings is vacated. Stevens, J. We Concur: Jones, P.J., Simons, J. (Not for Publication.)

Wednesday, August 21, 2002

Division Four

A093438; A093990 -- Willie M. Greene v. Dillingham Construction N.A., Inc.

By the Court: The opinion filed July 24, 2002, is modified at page 6. (See order.) The requests for publication of this court's opinion are granted, and it is hereby ordered that said opinion be published in the Official Reports of the State of California. Reardon, Acting P.J. (Certified for Publication.)

A091191 -- Eddye Melagrano et al. v. Elise Balgley et al.

Order Modifying Opinion and Denying Rehearing. The Court: It is ordered that the opinion filed herein on July 30, 2002, be modified as follows: (See order.) There is no change in the judgment. The petition for rehearing is denied. Kay, P.J. (Not for Publication.)

Division Five

A096675 -- In re Cory A., a Person Coming Under the Juvenile Court Law. San Francisco Department of Human Services v. Michael F.

The dispositional order and the order denying rehearing are affirmed. Jones, P.J. We Concur: Stevens, J., Gemello, J. (Not for Publication.)

A099295 -- Marla A. v. The Superior Court of Alameda County; Alameda County Social Services Agency, R.P.I.

The petition is denied. Stevens, Acting P.J. We Concur: Simons, J., Gemello, J. (Not for Publication.)

A096454 -- The People v. Gerard G. Alfonso.

The judgment of conviction is reversed as to count V, and the matter is remanded to the trial court for resentencing. Stevens, J. We Concur: Jones, P.J., Simons, J. (Not for Publication.)

Thursday, August 22, 2002

Division One

**A097121 -- John R. Johnston v. Sonoma County Agricultural
Preservation and Open Space District et al.; City of Santa Rosa et al., R.P.I.**

Order Modifying Opinion. The Court: It is ordered that the opinion filed herein on July 31, 2002 be modified as follows: (See order.) This modification does not change the judgment. Marchiano, P.J. (Certified for Publication.)

A097324 -- Rodolfo Velasquez, et al. v. Juan Jose Tellechea, et al.

By the Court: Appellant having failed to file a brief after notice given under rule 17(a)(1) of the California Rules of Court, the appeal is dismissed. Marchiano, P.J.

Division Two

A097842 -- Sheila Kae Bainbridge v. Terrell Justin Bainbridge.

The order terminating jurisdiction over spousal support is reversed, and the matter is remanded to the Superior Court for further proceedings. Ruvolo, J. We Concur: Haerle, Acting P.J., Lambden, J. (Not for Publication.)

Division Four

**A096478 -- In re Christopher C. and Sabrina C., Persons Coming
Under the Juvenile Court Law. Department of Health and Human Services
v. Latrena M. et al.**

The order of the trial court terminating parental rights is affirmed as to Christopher and reversed as to Sabrina. The matter is remanded to the juvenile court for a determination of adoptability after considering all relevant information that has come to light since the appeal. Rivera, J. We Concur: Kay, P.J., Reardon, J. (Not for Publication.)

Thursday, August 22, 2002 (continued)

A092690 -- The People v. Lemar Albert Harrison.

The judgment is affirmed. Reardon, J. We Concur: Kay, P.J., Sepulveda, J. (Not for Publication.)

A093235 -- Wayne Slavsky v. Dan M. Himmelheber.

We affirm the judgment. Reardon, Acting P.J. We Concur: Sepulveda, J., Rivera, J. (Not for Publication.)

Division Five

A094610 -- Semans Communications, Inc. v. C.H. Reynolds Electric, Inc.

The judgment is reversed only as to the award of attorney fees under section 3426.4. The judgment is in all other respects affirmed. Semans shall recover its costs on appeal. Stevens, Acting P.J. We Concur: Simons, J., Gemello, J. (Not for Publication.)

A099524 -- Harry J. Williby v. The Superior Court of Alameda County; Kimberly Oparaocho, et al., R.P.I.

By the Court:* This court has been informed that the superior court of Alameda County has complied with this court's alternative writ. Therefore, said writ is discharged, and the petition on file herein is dismissed as moot. Jones, P.J.

*Jones, P.J., Stevens, J., Gemello, J.

Thursday, August 22, 2002 (continued)

A094960 -- Ming F. Woo v. et al. v. Eric W. Lien et al.

Woo and Lucky United are entitled to declaratory relief establishing that they own exclusive title to the Property based on their December 1999 exercise of the right of first refusal. They are not entitled to damages for breach of contract, fraud, abuse of process, or breach of fiduciary duty. Lien and Yen are entitled to a declaration establishing their former interests in the Property and to compensation for the purchase of those interests by Woo and Lucky United pursuant to the right of first refusal. Prior to exercise, Woo owned a 37.5 percent interest in the Property, Lien owned a 37.5 percent interest in the Property, and Yen owned a 25 percent interest in the Property. Lien is therefore owed 37.5 percent of \$641,250, or \$240, 468.75, less the \$67,500 that was to be repaid from these funds, for a net of \$172,968.75. Yen is owed 25 percent of \$641,250, or \$160,312.50. Lien and Yen are not entitled to prejudgment interest because their refusal to honor the right of first refusal prevented Woo from paying them. (Civ. Code, § 3287, subd. (a).) However, they are entitled to reimbursement for any property costs they incurred from June 12, 2000, the day the sale would have closed. The judgment is affirmed in part, reversed in part, and remanded for further proceedings consistent with this opinion. Because neither side is the prevailing party in this appeal, each side shall bear its own costs on appeal. Gemello, J. We Concur: Jones, P.J., Stevens, J. (Not for Publication.)

Friday, August 23, 2002

Division One

A092876/A093705 -- Richard Donaldson v. National Marine, Inc.

The judgment is affirmed. Stein, Acting P.J. We Concur: Swager, J., Margulies, J. (Certified for Partial Publication.)

A095886 -- The People v. Stanley Robert Furtado.

The judgment is affirmed. Margulies, J. We Concur: Marchiano, P.J., Stein, J. (Not for Publication.)

A097503 & A097491 -- In re Desire H., a Person Coming Under the Juvenile Court Law. Contra Costa County Social Service Department v. Michael H.

The jurisdictional and dispositional orders of the juvenile court are affirmed. Marchiano, P.J. We Concur: Stein, J., Swager, J. (Not for Publication.)

A097746 -- The People v. Bradley Milan Thompson.

The judgment and sentence are affirmed. Marchiano, P.J. We Concur: Swager, J., Margulies, J. (Not for Publication.)

Division Three

A097804 -- The People v. Reginald Eugene Smith.

The judgment is affirmed. Corrigan, Acting P.J. We Concur: Parrilli, J., Pollak, J. (Not for Publication.)

Friday, August 23, 2002 (continued)

Division Four

A096503 -- The People v. Keon Bishop.

The judgment is modified by staying the term of imprisonment imposed pursuant to section 12022.1, said stay to be dissolved if and when defendant is convicted for the underlying primary offense. (See § 12022.1, subd. (d).) As so modified, the judgment of conviction is affirmed. Kay, P.J. We Concur: Reardon, J., Sepulveda, J. (Not for Publication.)

Division Five

A095695 -- Estate of Arthur Baker, Deceased.

The judgment is affirmed. Stevens, J. We Concur: Jones, P.J., Gemello, J. (Not for Publication.)

A096388 -- The People v. Christian Galindo.

The order is affirmed. Simons, J. We Concur: Jones, P.J., Stevens, J. (Not for Publication.)

A097678 -- The People v. John L. Marshall.

The judgment is affirmed. Stevens, Acting P.J. We Concur: Simons, J., Gemello, J. (Not for Publication.)

Monday, August 26, 2002

Division One

A098148 -- The People v. Terrance McCants.

There was no error in the sentencing proceedings. There are no meritorious issues to be argued. The judgment is affirmed. Marchiano, P.J. We Concur: Stein, J., Swager, J. (Not for Publication.)

Division Three

A097963 -- In re the Marriage of Janet C. Thurston and Sean R. Thurston.

The judgment of December 4, 2001, is reversed. In the interests of justice, each party is to bear his or her costs of appeal. The parties' motions to augment the record on appeal to include documents filed in the superior court after entry of judgment, which we previously ordered treated as requests for judicial notice and deferred for consideration until the appeal was considered on its merits, are denied as moot. McGuiness, P.J. We Concur: Corrigan, J., Parrilli, J. (Not for Publication.)

A097328 -- People v. William Brian Hoffman.

The judgment is affirmed. McGuiness, P.J. We Concur: Parrilli, J., Pollak, J. (Not for Publication.)

Division Four

A096990 -- The People v. Mary McGuire.

The suppression motion was properly denied. The judgment of the trial court is affirmed. Kay, P.J. We Concur: Reardon, J., Sepulveda, J. (Not for Publication.)

Monday, August 26, 2002 (continued)

Division Five

A094510 -- The People v. Melvin Parham.

Order Modifying Opinion and Denying Rehearing. By the Court: It is ordered that the opinion filed herein on July 30, 2002, be modified as follows: (See order.) The petition for rehearing is denied. The modification does not effect a change in the judgment. Jones, P.J. (Not for Publication.)

A095955 -- Steiny and Company, Inc. v. American Contractors Indemnity Company.

The order denying ACIC's motion to be determined as the prevailing party and seeking attorney fees and costs is reversed. The trial court is directed to enter a new and different order granting the motion and awarding ACIC its attorney fees and costs on appeal in an amount to be determined by the trial court on remand. ACIC is further awarded its attorney fees and costs on appeal in an amount to be determined by the trial court on remand. Simons, J. We Concur: Jones, P.J., Stevens, J. (Not for Publication.)

Tuesday, August 27, 2002

Division One

A094035 -- The People v. Brian C. Schooling.

Based on the concession of error and controlling precedent, the judgment is reversed. The cause is remanded to the trial court with instructions to vacate appellant's guilty pleas and proceed further on the information. Marchiano, P.J. We Concur: Swager, J., Margulies, J. (Not for Publication.)

Division Two

A097495 -- Thomas Corbett v. The Superior Court of Alameda County; Bank of America, N.A. et al., R.P.I.

Let a peremptory writ of mandate issue directing respondent court to vacate its order refusing to consider a class action under the UCL, and to consider further disposition of this matter in accordance with the views expressed herein. Costs are awarded to Corbett. Lambden, J. I Concur: Kline, P.J. (Certified for Publication.) (See dissenting opinion by Haerle, J.)

A093331 -- Dorothee Dary et al. v. Lee Ann Gilbert et al.

The judgment is reversed, and the matter remanded to the trial court for further proceedings. The Darys are awarded costs on appeal. (Cal. Rules of Court, rule 26(a).) Their request for judicial notice of the PSI defendants' answer to their complaint is denied. Ruvolo, J. We Concur: Haerle, Acting P.J., Lambden, J. (Not for Publication.)

Division Four

A097026 -- Gale B. Anderson v. Regents of the University of California.

The judgment is affirmed. Sepulveda, J. We Concur: Kay, P.J., Reardon, J. (Not for Publication.)

Tuesday, August 27, 2002 (continued)

A096363 -- California Oak Foundation et al. v. Department of Forestry and Fire Protection et al.; California Cattlemen's Association.

The judgment of the trial court is affirmed. Rivera, J. We Concur: Kay, P.J., Reardon, J. (Not for Publication.)

A096831 -- C & W. Asset Acquisition LLC v. Independence Petroleum Company et al.

The judgment is reversed in part with directions to enter a new judgment consistent with this opinion. The parties shall bear their own costs on appeal. Kay, P.J. We Concur: Sepulveda, J., Rivera, J. (Not for Publication.)

A076420 -- De Qi Liang v. Lee P. Der

The order is affirmed. Kay, P.J. We Concur: Reardon, J., Sepulveda, J. (Not for Publication.)

A094859 -- Oakland-Alameda County Coliseum Authority v. CC Partners.

The judgment is affirmed. The cross-appeal is dismissed as moot. The Authority shall recover its costs on appeal. Kay, P.J. We Concur: Reardon, J., Rivera, J. (Certified for Publication.)

A097498 -- David Purtle v. Alonzo Hernandez.

The judgment is affirmed. Sepulveda, J. We Concur: Kay, P.J., Rivera, J. (Not for Publication.)

A096809 -- In re Andre S., Jr., a Person Coming Under the Juvenile Court Law. Alameda County Social Services Agency v. Andre S., Sr. et al., Andre S., Jr.

Order Modifying Opinion. By the Court: The opinion filed herein on August 7, 2002, is modified as follows: (See order.) This modification does not effect a change in the judgment. Sepulveda, Acting P.J. (Not for Publication.)

Tuesday, August 27, 2002

Division Five

A097601 -- In re Al B., a Person Coming Under the Juvenile Court Law. The People v. Al B.

The judgment is reversed and the matter is remanded for a hearing on appellant's motion to suppress evidence. Stevens, Acting P.J. We Concur: Simons, J., Gemello, J. (Not for Publication.)

A095087 -- The People v. Constance Louise Dix.

The judgment is affirmed. Stevens, J. We Concur: Jones, P.J., Gemello, J. (Not for Publication.)

A096469 -- In re Hans M. et al., Persons Coming Under the Juvenile Court Law. Alameda County Social Services Agency v. Patricia M. et al.

The dispositional order dismissing the dependency case is affirmed. The exit order setting forth the custody rights of Patricia and Jeff and precluding either of them from removing Hans and Nils from the state without written consent of the other parent or court order is reversed. Jones, P.J. We Concur: Stevens, J., Simons, J. (Not for Publication.)

Wednesday, August 28, 2002

Division One

A097633 -- Allyson Erick v. Turner Construction Company et al.

The summary judgment is affirmed. Marchiano, P.J. We Concur: Stein, J., Margulies, J. (Not for Publication.)

Division Two

A095954 -- Sarah Halees, a minor, etc., et al. v. Millie Chauser.

The judgment is reversed. Costs on appeal are awarded to appellants. Haerle, Acting P.J. We Concur: Lambden, J., Ruvolo, J. (Not for Publication.)

A097356 -- The People v. Jerry DeWayne Jones.

The order permanently revoking appellant's probation and reinstating his previously stayed commitment to state prison and the judgment are affirmed. Marchiano, P.J. We Concur: Swager, J., Margulies, J. (Not for Publication.)

A095525 -- The People v. Thomas Gabriel McGill.

The judgment is affirmed. Kline, P.J. We Concur: Haerle, J., Lambden, J. (Not for Publication.)

A097631 -- New Century Press v. Stephen J. Barrett et al.

The order is affirmed. Ruvolo, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

A096719 -- James A. Sims, Jr. v. Douglas J. Hendrickson et al.

The order denying the motion to compel arbitration is reversed with directions to order this matter to arbitration before the NFLPA and to stay the underlying litigation. Appellants shall recover their costs on appeal. Ruvolo, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

Wednesday, August 28, 2002 (continued)

Division Three

A096147 -- Karen B. Fireman, et al. v. Monier, Inc., et al.

The judgment is affirmed. Appellants shall pay respondents' costs on this appeal. McGuiness, P.J. We Concur: Corrigan, J., Parrilli, J. (Not for Publication.)

A093826 -- The People v. Carley Gracie.

The judgment is affirmed. Corrigan, Acting P.J. We Concur: Parrilli, J., Pollak, J. (Not for Publication.)

A096950 -- In re Isabella M., a Person Coming Under the Juvenile Court Law. Social Services Agency v. Leslie S.

The order is affirmed. Corrigan, J. We Concur: McGuiness, P.J., Parrilli, J. (Not for Publication.)

A096018 -- Mount Diablo Medical Center v. Health Net of California, Inc.

The order denying Health Net's petition is affirmed. Mount Diablo Medical Center shall recover its costs on appeal. Pollak, J. We Concur: McGuiness, P.J., Parrilli, J. (Certified for Publication.)

A098066 -- The People v. James Odle.

The trial court's orders are affirmed. Corrigan, J. We Concur: McGuiness, P.J., Parrilli, J. (Not for Publication.)

Division Four

A097529 -- Rhonda Cochran v. County of Humboldt.

The judgment is affirmed. Reardon, J. We Concur: Kay, P.J., Rivera, J. (Not for Publication.)

Wednesday, August 28, 2002 (continued)

A097292 -- In re Lincoln F., a Person Coming Under the Juvenile Court Law. The People v. Lincoln F.

The disposition order is affirmed. Reardon, J. We Concur: Kay, P.J., Rivera, J. (Not for Publication.)

A097785 -- The People v. Roberto Angeleno Vensetea.

The judgment is affirmed. Kay, P.J. We Concur: Sepulveda, J., Rivera, J. (Not for Publication.)

Division Five

A094816 -- Deborah Drummer v. San Francisco Housing Authority.

By the Court:* We dismiss this appeal for lack of appellate jurisdiction.

We conclude the proper remedy is to dismiss the appeal, and remand the matter to the trial court with instructions to rule on the fourth cause of action and file a final judgment on all issues. It is so ordered. Jones, P.J.

*Stevens, J., Simons, J., Gemello, J.

Thursday, August 29, 2002

Division One

A097906 and A098748 -- The People v. Accredited Surety & Casualty Co.

By the Court: Appellant's motion to consolidate the above-referenced appeals is granted for purposes of briefing, oral argument and decision. Both case numbers shall appear on all documents filed in this court. Respondent may file a consolidated respondent's brief, which remains due November 4, 2002.
Marchiano, P.J.

A096009 -- Heartland Financial Corp. v. Turbodyne Technologies, Inc.

The judgment is affirmed. Margulies, J. We Concur: Marchiano, P.J., Swager, J. (Not for Publication.)

A097936 -- City and County of San Francisco v. Spiers Construction Company et al.

The order granting a preliminary injunction is affirmed. Margulies, J. We Concur: Marchiano, P.J., Swager, J. (Not for Publication.)

Division Two

A097242 -- In re Kevin P., a Person Coming Under the Juvenile Court Law. The People v. Kevin P.

The orders adjudicating appellant a continued ward of the court and placing him under the supervision of the probation department are affirmed. Haerle, Acting P.J. We Concur: Lambden, J., Ruvolo, J. (Not for Publication.)

A098363 -- The People v. Samuel Lee Summers.

The judgment is affirmed. Kline, P.J. We Concur: Haerle, J., Lambden, J. (Not for Publication.)

Thursday, August 29, 2002 (continued)

Division Three

A094724 -- In re the Marriage of Mildred and Daniel B., Daniel B. v. Mildred B.

The order is affirmed. Corrigan, J. We Concur: McGuiness, P.J., Parrilli, J. (Not for Publication.)

A093197 -- Paul M. Betterton v. Jonathan Leichtling.

The judgment is affirmed. The parties shall bear their own costs on appeal. Parrilli, J. We Concur: McGuiness, P.J., Corrigan, J. (Certified for Publication.)

A098045 -- The People v. Brian Tracey Hill.

The judgment is affirmed. Parrilli, J. We Concur: McGuiness, P.J., Corrigan, J. (Not for Publication.)

A097866 -- The People v. Maleko Potasi.

The judgment is affirmed. Corrigan, J. We Concur: McGuiness, P.J., Pollak, J. (Not for Publication.)

A091770 & A092359 -- David Spangenberg and Stefani Spangenberg v. Estate of Joseph Michael Gughemetti et al.

The judgment is affirmed. Corrigan, J. We Concur: McGuiness, P.J., Parrilli, J. (Not for Publication.)

Division Four

A094362 -- The People v. Harmon Mark Hicks.

The judgment of the trial court is affirmed. Rivera, J. We Concur: Kay, P.J., Sepulveda, J. (Not for Publication.)

Thursday, August 29, 2002 (continued)

A093399 -- The People v. Robert Richard Sterling.

The commitment order is affirmed. Reardon, J. We Concur: Kay, P.J., Rivera, J. (Not for Publication.)

Division Five

A097677 -- Jack Robishaw v. Exxonmobil Corporation.

The order denying defendant's motion for relief under section 473 is affirmed. Gemello, J. We Concur: Jones, P.J., Simons, J. (Not for Publication.)

Friday, August 30, 2002

Division One

A097276 -- In re Danielle B., a Person Coming Under the Juvenile Court Law. Contra Costa Social Services Department v. Robert B.

The orders are affirmed. Stein, Acting P.J. We Concur: Swager, J., Margulies, J. (Not for Publication.)

A097546 -- Coastal Auto Mart, Inc. v. Charles Tuttle.

The order imposing \$500 sanctions is affirmed. The order denying the motion for relief from default is reversed. The cause is remanded to the trial court with directions to grant relief from default and set aside the default judgment, and to award compensatory legal fees and costs to respondent. (§ 473, subd.(b).) The court is also directed to consider the imposition of the discretionary penalties and other appropriate relief permitted by section 473, subdivision (c)(1). The parties shall bear their own costs of this appellate proceeding. Marchiano, P.J. We Concur: Swager, J., Margulies, J. (Not for Publication.)

A099769 -- Joan Cooper v. William Jeffrey Gilliam.

By the Court: Appellant having failed to file a docketing statement in compliance with rule 2(a), First District Local Rules, after notice given dated 8-14-02, the appeal is dismissed. Marchiano, P.J.

A095980 -- The People v. Joseph Ryan Simmons.

The judgment is affirmed. Stein, J. We Concur: Marchiano, P.J., Swager, J. (Not for Publication.)

Division Two

A095970 -- In re Breezie C., a Person Coming Under the Juvenile Court Law. Humboldt county Department of Social Services v. Edwin Gus D.

The court's orders are affirmed. Ruvolo, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

Friday, August 30, 2002 (continued)

Division Three

A090415 -- The People v. Troy Barnes.

The trial court did not err in any of the rulings challenged on this appeal. The judgment therefore is affirmed. Pollak, J. We Concur: McGuiness, P.J., Corrigan, J. (Not for Publication.)

A090056 -- Victor M. Catanzaro, et al. v. Chevron U.S.A., Inc., et al.

Based on our review of the entire record, we conclude that there was no prejudicial error in the trial court's grant of the four motions in limine challenged by appellants, and the jury's unanimous general verdict in Chevron's favor was overwhelmingly supported by ample substantial evidence. The judgment is therefore affirmed. Appellants shall pay Chevron's costs on appeal. McGuiness, P.J. We Concur: Parrilli, J., Gemello, J.* (Not for Publication.)

*Associate Justice, First Appellant District, Division Five, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Division Four

A096649 -- The People v. Jerome James Bryant.

Judgment affirmed. Reardon, J. We Concur: Kay, P.J., Sepulveda, J. (Not for Publication.)

A095804 -- The People v. Anthony Lee wolf.

The judgment is affirmed. Rivera, J. We Concur: Kay, P.J., Reardon, J. (Not for Publication.)

Division Five

A098258 -- In re Angela A. et al., Persons Coming Under the Juvenile Court Law. San Francisco Department of Human Services v. Angela A.

The order is affirmed. Jones, P.J. We Concur: Stevens, J., Simons, J. (Not for Publication.)

Friday, August 30, 2002 (continued)

**A094163 -- In re Golden Eagle Insurance Company in Liquidation.
Harry W. Low, as Insurance Commissioner, etc. v. American International
Group, Inc., et al., John C. Mabee et al.**

**A094166 -- In re Golden Eagle Insurance Company in Liquidation.
Harry W. Low, as Insurance Commissioner, etc. v. American International
Group, Inc., et al.; George Dukemejian, as Deputy Cotrustee, etc., et al.**

The orders approving the Commissioner's proposed AIG settlement and denying the motion to vacate the January 2, 2002 order and for new trial are affirmed. Costs shall be awarded to respondents. Simons, J. We Concur: Jones, P.J., Stevens, J. (Not for Publication.)

Friday, August 30, 2002 (continued)

A097781 -- Marva L. Hickman v. Louis V. Baesel.

The judgment is affirmed. Jones, P.J. We Concur: Stevens, J., Simons, J.
(Not for Publication.)

A092794 -- The People v. Khalid Muhammad.

The judgment is affirmed. Gemello, J. We Concur: Jones, P.J., Simons, J.
(Not for Publication.)

**A095481 -- Steven A. Wright v. International Computer Consultants,
Inc.**

The judgment is reversed. Costs shall be awarded to appellant. Simons, J.
We Concur: Jones, P.J., Gemello, J. (Not for Publication.)